

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

In re:

WINDING ROAD, INC.

Debtor.

Chapter 11

Case No. 883-30081-20

STIPULATION AND ORDER

The United States of America, a creditor in this case, and Debtor, Winding Road Properties, Inc., hereby agree and stipulate as follows:

1. Debtor is the current owner of a portion of the real property at the Claremont Polychemicals Superfund Site ("Site") located in Old Bethpage, New York, a site that is on the National Priorities List. The National Priorities List was promulgated pursuant to the Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9605, ("CERCLA") (as amended) and is a national list of hazardous waste sites posing a threat to health, welfare or the environment. The Site includes approximately 9.5 acres on which a one story building, approximately 35,000 square feet in size, is located. The Site property was used from 1968 until the cessation of operations in 1980, for the manufacture of inks and pigments for plastics, coated metallic flakes and vinyl stabilizers.

2. EPA has undertaken and completed a Remedial Investigation/Feasibility Study ("RI/FS") pursuant to Section

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104(b) and (e) of CERCLA, 42 U.S.C. § 9604(b) and (e), in which EPA evaluated the nature and extent of contamination at the Site and assessed remedial alternatives with respect to that contamination.

3. Debtor's President, Mark Neitlich, granted EPA access to the Site for the purpose of carrying out the response actions conducted there to date.

4. On September 28, 1990, the Environmental Protection Agency ("EPA") issued a Record of Decision for the Site in which EPA selected the remedy that will be employed to address each aspect of contamination at the Site. The remedy for the Site is known as the Remedial Action.

5. Since EPA issued the ROD, EPA has been designing the Remedial Action for the Site. The Remedial Design process is now complete. EPA must now implement the remedy selected in the ROD.

6. In order for EPA to implement the remedy selected in the ROD, access to the Site is needed by EPA and its agents and contractors.

7. Section 104(e) of CERCLA authorizes EPA to have access to a facility to implement a ROD. Where "there is a reasonable basis to believe there may be a release or threat of release of hazardous substance or pollutant or contaminant," Section 104(e) of CERCLA, authorizes the President to "enter at reasonable times any . . . facility, establishment or other property . . . where entry is needed . . . [in order] to



effectuate a response action under [Section 104 of CERCLA, 42 U.S.C. § 9604]."

8. Debtor and the United States agree that the Environmental Protection Agency and its representatives may lawfully enter onto the Site to implement the Remedial Action for the Site; specifically, EPA and its representative may lawfully enter onto the Site, for the following purposes:

a. to take such soil, water, and air samples as may be determined to be necessary;

b. to remove and/or dispose of hazardous substances, wastes, pollutants, and/or contaminants from the soil and material;

c. to decontaminate the building present on the Site;

d. to exclude unauthorized personnel and material from the Site;

e. to construct treatment buildings for the treatment of contaminated soils and groundwater present at the Site;

f. to extract and treat groundwater at the Site, reinject treated groundwater into the ground at the Site, to lay pipes necessary for the groundwater treatment system and to perform maintenance and repairs on this system;

g. to store equipment and materials necessary for the Remedial Action;



h. to construct temporary storage buildings necessary for equipment and materials storage;

i. to conduct the Remedial Action pursuant to the National Contingency Plan (40 C.F.R. Part 300) or otherwise enforce the provisions of CERCLA.

9. The Court's Order will remain in effect for as long as it takes EPA to complete the response actions authorized in its September 28, 1990 ROD.

SO ORDERED.

3<sup>rd</sup> day of April, 1995

ROBERT JOHN HALL  
ROBERT JOHN HALL  
UNITED STATES BANKRUPTCY JUDGE

Seen and Agreed to:

March 30<sup>th</sup>, 1995

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March 1<sup>st</sup>, 1995

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March 7, 1995



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